



# HYDRAULIC PROJECT APPROVAL

RCW 77.55.100 & RCW 77.55.200

State of Washington  
Department of Fish and Wildlife  
Habitat Program  
600 Capitol Way North, MS 3155  
Olympia, Washington 98501-1091

**DATE OF ISSUE:** June 29, 2004

**LOG NUMBER:** GH-F3591-01

<u>PERMITTEE</u>	<u>AUTHORIZED AGENT OR CONTRACTOR</u>
Washington State Department of Transportation ATTENTION: Gregor Myhr 310 Maple Park Avenue SE Olympia, Washington 98504 360.705.7487 FAX: 360.705.6833	Not Applicable

**PROJECT DESCRIPTION:** LWM/Debris removal and relocation from WSDOT bridges

**DATABASE PROJECT DESCRIPTION:** Maintenance, Fixed, Permanent, Combination, Water Crossing Structure, Bridge, Freshwater, Above and on Bed

**PROJECT LOCATION:** Statewide on WSDOT Rights-of-Way, Freshwater

#	<u>WRIA</u>	<u>WATER BODY</u>	<u>TRIBUTARY TO</u>	<u>1/4 SEC.</u>	<u>SEC.</u>	<u>TOWNSHIP</u>	<u>RANGE</u>	<u>COUNTY</u>
01	99.0000	All Freshwater		var	var	var	var	All

**NOTE:** This Hydraulic Project Approval pertains only to the provisions of the Washington State Fisheries and Wildlife Codes. It is the permittee's responsibility to apply for and obtain any additional authorization from other public agencies (local, state and/or federal) that may be necessary for this project.

**NOTE:** These activities are proposed in state waters that may contain federally threatened or endangered species of fish. Compliance with the provisions of this approval does not ensure compliance with the Endangered Species Act. For further information, contact the National Marine Fisheries Service at (360) 753-9090 and/or the United States Fish and Wildlife Service at (360) 753-9564.

**NOTE:** The previous version of the GHPA for debris removal from DOT rights-of-way (Control Number GH-D9416-04) included debris and LWM removal work on both culverts and bridges. Since the culvert work has been called out in a separate GHPA (Control Number GH-F3589-02, issued June 28, 2004), this approval is only for LWM/debris and bedload removal from WSDOT bridges. This approval supersedes any and all HPAs for the same type of work, including the following:

GH-D9416-04, GH-F3266-02

**NOTE:** In the event that the applicant cannot comply with the provisions of this approval due to site specific or other concerns, separate written approval may be sought from the local Area Habitat Biologist for the project.

## DEFINITIONS

- Debris** – Small woody material and large and small inorganic material including trash, tires and garbage etc. This definition does not include new construction waste or woody debris resulting from beaver activity. Debris does not include woody debris placed in channels for an environmentally beneficial purpose.
- Embedded** – Condition in which debris or large woody material is buried by bedload material exceeding 50 cubic yards.
- Environmental Compliance Assurance Procedure** – WSDOT communication protocol to monitor and measure compliance performance.



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- **Fill Material** – Any material that replaces an aquatic area with dry land or changes the bottom elevation of a water body. Examples of fill that might be used in channel maintenance include gravel, rock, riprap, sand, wood chips, etc.
- **Large Woody Material (LWM)** – Trees or tree parts larger than four inches in diameter and longer than six feet in length, including rootwads (WAC 220 -110 -020 (48)). This material is located wholly or partially waterward of the ordinary high water line (OHWL).
- **Maintenance** – Activities that (a) are conducted on currently serviceable structures, facilities, and equipment; and (b) involve no expansion of or change in use of such structures, facilities, and equipment beyond those that existed previously; and (c) do not result in significant negative hydrological impacts.
  - **Scheduled Maintenance** - budgeted work, performed routinely on a regular basis. It is intended to maintain the roadway facility/element so that it substantially retains its original intended use and function.
  - **Unscheduled Maintenance** - unanticipated activities that occur due to unusual weather condition, vandalism, accident, etc. Work activities are conducted similar to routine maintenance activities except that work is unanticipated and poses an imminent danger to the existing structures or traveling public.
- **Ordinary High Water Line (OHWL)** – "Ordinary high water line" means the mark on the shores of all waters that will be found by examining the bed and banks and ascertaining where the presence and action of waters are so common and usual and so long continued in ordinary years, as to mark upon the soil or vegetation a character distinct from that of the abutting upland provided that in any area where the ordinary high water line cannot be found the ordinary high water line adjoining saltwater shall be the line of mean higher high water and the ordinary high water line adjoining freshwater shall be the elevation of the mean annual flood (WAC 220-110-020 (57)).
- **Permittee** – The entity to whom the permit is issued.
- **Riprap** – Material used for bank protection that does not include waste concrete or asphalt material.
- **Sediment(s)** – Settled particulate matter located in the predominant biologically active aquatic zone, or exposed to the water column. Sediment(s) also includes settled particulate matter exposed by human activity (e.g., dredging) to the biologically active aquatic zone or to the water column. (WAC 173 -204 -200 (26)).
- **Serviceable Condition** – A structure or element of the structure that can be repaired, maintained, or replaced without the redevelopment of the whole right of way structure.
- **Waters of the State** – Waters of the state or "state waters" means all salt waters and fresh waters waterward of ordinary high water lines and within the territorial boundaries of the state – (WAC 220-110-020 (85)).
- **Wetted Perimeter** – The areas of a watercourse covered with water, flowing or non-flowing (WAC 220-110-020-(88)).

#### PROVISIONS

1. **TIMING LIMITATIONS:** The project may begin **immediately** and shall be completed by **June 1, 2009**, provided:
  - a. scheduled work will be conducted in the natural dry stream channel during summer months (June 1 - October 15).  
If work occurs in the wetted perimeter it will be done during the attached work windows (Attachment 1).
2. **NOTIFICATION REQUIREMENT:** The permittee or contractor will notify (verbal, fax, email, etc.) the WDFW Regional Habitat Program Manager (RHPM), listed in Attachment 2, of the project start date. Notification will be received by the RHPM at least three working days prior to the start of maintenance activities. The notification will include the permittee's name, project



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location (Township/Range/Section, Road Name/Milepost, Lat/Long, or comparable location data), starting date for work, and the control number for the Hydraulic Project Approval (HPA).

3. **ANNUAL REPORTING:** The permittee shall submit to the WDFW Habitat Program, 600 Capital Way N. Olympia, WA 98501, a calendar year annual report of the Bridge Debris Removal projects by March 31 of the following year, or in the final year of the permit prior to the expiration date. An annual report is also required if no work was conducted under the agreement. The report shall include:
- a. **General:** Reporting agency, address, telephone number, date of the report and time period,
  - b. **Summary:** The control number for the HPA, total number of individual projects by region and statewide,
  - c. **Problem(s) encountered:** Provision violation, notification, corrective action, impacts to fish life and water quality from problem. If the Environmental Compliance Assurance Procedure (ECAP) was used, what activity triggered the procedure. *[These may be highlighted and specified in this section or included in the full list of projects completed below],*
  - d. **Recommendations for improvement to Best Management Practices (BMP's) and mitigation** *[Optional]*
  - e. **List of individual projects completed:** By region including water body name, road number and milepost, date of work or other method of identifying specific location.

At any time if problems are experienced with implementation of these conditions, either the permittee or WDFW may request a joint review meeting.

4. **FISH KILL/ WATER QUALITY PROBLEM NOTIFICATION:** If at any time, as a result of project activities, fish are observed in distress, a fish kill occurs, or water quality problems develop, immediate notification shall be made to Ecology at 1-800-258-5990.
5. This HPA does NOT authorize structure (i.e., culvert, bridge, wingwall/bulkhead, etc.) or riprap installation, repair, or replacement, dredging, sediment removal (except that incidental to LWM or debris removal), channel changes, pile driving, limbing, brushing, etc. This HPA is for removal and/or repositioning of non-embedded LWM and/or debris only.

### WATER QUALITY

- 6. Best Management Practices shall be implemented during all phases of the project to ensure that sediment-laden water does not enter waters of the state.
- 7. If flow conditions occur that may cause siltation during a project, work shall stop until the flow subsides.
- 8. There shall be no visible sheen from petroleum products in the receiving water as a result of the activity.
- 9. No petroleum products, hydraulic fluid, fresh cement, sediments, sediment-laden water, chemicals, or any other toxic or deleterious materials are allowed to enter or leach into waters of the state.
- 10. Where appropriate and based upon site conditions and maintenance activity to be conducted, work shall be accomplished by hand or with hand tools such as chain saws or vehicle winches. If the use of heavy equipment is necessary, equipment shall be stationed on and operate from the bridge, top of the bank, or roadway. When absolutely necessary, equipment may operate stationed on dry gravel bars at low stream flow, provided the drive mechanisms (wheels, tracks, tires, etc.) shall not enter or operate below the OHWL.
- 11. Equipment crossings to gain access for work shall be on roadway structures.



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### **LARGE WOODY MATERIAL AND DEBRIS REMOVAL**

12. Structures that tend to accumulate LWM/debris shall be inspected and LWM/debris removal or repositioning shall be frequent enough to prevent the build up of large debris jams. The frequency of inspection and LWM/debris removal or repositioning shall depend upon the site and weather conditions.
13. Embedded LWM/debris shall not be removed. A separate individual HPA is required to remove embedded LWM/debris.
14. LWM/debris shall be removed gradually and in a controlled manner to prevent a sudden release of any impounded water, bed, logs, other material or sediments which may result in downstream bed and bank degradation, sedimentation or flooding. Slowly removing portions of the LWM/debris and allowing the water level to go down slowly, before removing additional portions of the LWM/debris, may accomplish this.
15. If LWM must be removed, it shall be repositioned below the OHWL downstream of the bridge to provide stable, functional fish habitat. If anchoring repositioned LWM is necessary, only non-invasive streambed or stream bank anchoring techniques, such as pinning with rebar, rock drilling and cable, etc., may be used. Streambed or stream bank excavation, or removal of embedded material is not authorized. Streambed or stream bank excavation or removal of embedded LWM shall require separate, written approval from WDFW.
16. If, due to compelling safety or habitat concerns (i.e. in eddies or in areas where bank erosion is occurring), LWM cannot be repositioned within the channelized stream downstream of the structure or released to float downstream, said LWM shall be:
  - a. set aside in a location that ensures availability for use in future fish habitat/ restoration projects by agencies or other entities, or
  - b. disposed of away from the watercourse so that it will not reenter state waters.

In either case, prior consultation and separate, written approval from the local AHB is required before removing the LWM.

17. Smaller limb and bark debris that is removed from LWM shall be disposed of so it shall not re-enter the stream.
18. Whenever possible, material shall be lifted out with full suspension to eliminate or minimize watercourse bed and bank disturbance. Material shall not be dragged across the bed or bank, except where debris cannot be suspended above the bed and banks. Where debris cannot be suspended above the bed and banks, skid logs or similar methods shall be used to minimize bank damage.

### **BEDLOAD MATERIAL REMOVAL**

19. Bedload material be removed only in conjunction with and to facilitate LWM/debris removal. Less than 50 cubic yards of bedload material may be removed per site per year.
20. Stream banks and fish spawning areas shall not be disturbed without prior consultation with and separate, written approval from the local AHB.
21. Bedload material shall be removed with a clamshell, backhoe, or equivalent equipment. The equipment shall be operated to minimize turbidity. During excavation, each pass with the bucket shall be complete. Dredged material shall not be stockpiled waterward of the OHWL.
22. Bedload material shall be disposed of upland so it will not reenter state waters. Bedload material shall not be placed on or over existing riparian vegetation.



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23. Upon completion of the bedload material removal, the streambed shall contain no pits, potholes, or large depressions so as to avoid stranding of fish.
24. Whenever practicable, removal shall be accomplished in the dry.
25. Removal shall be accomplished by starting at the upstream end of the project boundary and working downstream.

**REVEGETATION PROVISIONS**

26. Alteration or disturbance of the bank and bank vegetation shall be limited to that necessary to construct the project. Within seven calendar days of project completion, all disturbed areas shall be protected from erosion using vegetation or other BMP's. Within the first planting season, the banks, including riprap areas, shall be revegetated with native or other approved woody species. Vegetative cuttings shall be planted at a maximum interval of three feet (on center) and maintained as necessary for three years to ensure 80 percent survival.
27. Existing riparian vegetation outside of the work area shall not be removed or disturbed.
28. Care shall be used when accessing the site to minimize the disturbance of riparian vegetation. Riparian vegetation shall be straddled with heavy equipment or be pruned as necessary without damaging the roots, to allow the operation of heavy equipment.

**SEPA:** DNS by WSDOT final on July 16, 1997.

cc w/o att: Gayle Kreitman  
RHPMs.  
AHBs

Attachments: RHPM List  
Freshwater work windows

**APPLICATION ACCEPTED:** May 27, 2004

**ENFORCEMENT OFFICER:** Captains R1-R6 [P3]

Robert J. Bicknell (360) 274-9814  
Fish and Wildlife Biologist

for Director  
DFW

**GENERAL PROVISIONS**

This Hydraulic Project Approval (HPA) pertains only to the provisions of the Fisheries Code (RCW 77.55 - formerly RCW 75.20). Additional authorization from other public agencies may be necessary for this project.

This HPA shall be available on the job site at all times and all its provisions followed by the permittee and operator(s) performing the work.

This HPA does not authorize trespass.

The person(s) to whom this HPA is issued may be held liable for any loss or damage to fish life or fish habitat which results from failure to comply with the provisions of this HPA.



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Failure to comply with the provisions of this Hydraulic Project Approval could result in a civil penalty of up to one hundred dollars per day or a gross misdemeanor charge, possibly punishable by fine and/or imprisonment.

All HPAs issued pursuant to RCW 77.55.100 or 77.55.200 are subject to additional restrictions, conditions or revocation if the Department of Fish and Wildlife determines that new biological or physical information indicates the need for such action. The permittee has the right pursuant to Chapter 34.04 RCW to appeal such decisions. All HPAs issued pursuant to RCW 77.55.110 may be modified by the Department of Fish and Wildlife due to changed conditions after consultation with the permittee: PROVIDED HOWEVER, that such modifications shall be subject to appeal to the Hydraulic Appeals Board established in RCW 77.55.170.

### **APPEALS - GENERAL INFORMATION**

IF YOU WISH TO APPEAL A DENIAL OF OR CONDITIONS PROVIDED IN A HYDRAULIC PROJECT APPROVAL, THERE ARE INFORMAL AND FORMAL APPEAL PROCESSES AVAILABLE.

**A. INFORMAL APPEALS (WAC 220-110-340) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100, 77.55.110, 77.55.140, 77.55.190, 77.55.200, and 77.55.290:**

A person who is aggrieved or adversely affected by the following Department actions may request an informal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA; or
- (B) An order imposing civil penalties.

It is recommended that an aggrieved party contact the Area Habitat Biologist and discuss the concerns. Most problems are resolved at this level, but if not, you may elevate your concerns to his/her supervisor. A request for an INFORMAL REVIEW shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091 and shall be RECEIVED by the Department within 30-days of the denial or issuance of a HPA or receipt of an order imposing civil penalties. The 30-day time requirement may be stayed by the Department if negotiations are occurring between the aggrieved party and the Area Habitat Biologist and/or his/her supervisor. The Habitat Protection Services Division Manager or his/her designee shall conduct a review and recommend a decision to the Director or its designee. If you are not satisfied with the results of this informal appeal, a formal appeal may be filed.

**B. FORMAL APPEALS (WAC 220-110-350) OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.100 OR 77.55.140:**

A person who is aggrieved or adversely affected by the following Department actions may request a formal review of:

- (A) The denial or issuance of a HPA, or the conditions or provisions made part of a HPA;
- (B) An order imposing civil penalties; or
- (C) Any other "agency action" for which an adjudicative proceeding is required under the Administrative Procedure Act, Chapter 34.05 RCW.

A request for a FORMAL APPEAL shall be in WRITING to the Department of Fish and Wildlife, 600 Capitol Way North, Olympia, Washington 98501-1091, shall be plainly labeled as "REQUEST FOR FORMAL APPEAL" and shall be RECEIVED DURING OFFICE HOURS by the Department within 30-days of the Department action that is being challenged. The time period for requesting a formal appeal is suspended during consideration of a timely informal appeal. If there has been an informal appeal, the deadline for requesting a formal appeal shall be within 30-days of the date of the Department's written decision in response to the informal appeal.

**C. FORMAL APPEALS OF DEPARTMENT ACTIONS TAKEN PURSUANT TO RCW 77.55.110, 77.55.200, 77.55.230, or 77.55.290:**

A person who is aggrieved or adversely affected by the denial or issuance of a HPA, or the conditions or provisions made part of a HPA may request a formal appeal. The request for FORMAL APPEAL shall be in WRITING to the Hydraulic Appeals Board per WAC 259-04 at Environmental Hearings Office, 4224 Sixth Avenue SE, Building Two - Rowe Six, Lacey, Washington 98504; telephone 360/459-6327.

**D. FAILURE TO APPEAL WITHIN THE REQUIRED TIME PERIODS RESULTS IN FORFEITURE OF ALL APPEAL RIGHTS. IF THERE IS NO TIMELY REQUEST FOR AN APPEAL, THE DEPARTMENT ACTION SHALL BE FINAL AND UNAPPEALABLE.**